# United States Court of Appeals for the Second Circuit



# BRIEF FOR APPELLANT

UNITED STATES COURT OF APPEALS

FOR THE SECOND JUDICIAL CIRCUIT

PK

DOCKET NUMBER 76 - 7165

BISGANATH HALDER.

PLAINTIFF - APPELLANT,

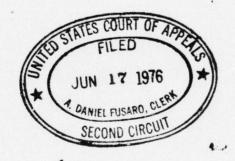
V

SPERRY RAND CORPORATION,

DEFENDANT - APPELLEE.

FOR THE EASTERN DISTRICT OF NEW YORK

### BRIEF FOR PLAINTIFF - ADPELLANT



BISCANATH HALDER

APPELLANT PRO SE

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FRESH MEADOWS, NY 11365

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ISSUES PRESENTED WHETHER THE TRIAL COURT ABUSED ITS 1. DISCRETION IN REFUSING LEAVE TO THE APPELLM TO FILE AN AMENDED COMPLAINT. 2. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENVING THE APPELLANT "COMPETENT EVIDENCE" THROUGH DISCOVERY IN ORDER TO ESTABLISH A PRIMA FACIE CASE OF EMPLOYMENT DISCRIMINATION. WHETHER THE TRIAL COURT ABUSED ITS 3. DISCRETION IN DISMISSING THE COMPLAINT FOR LACK OF PROSECUTION , WHEN THE APPELLANT HAD BEEN UICOROUSLY PROSECUTING IT.

#### STATEMENT OF FACTS

THE APPELLANT WAS BORN IN INDIA, OF INDIAN PARENTAGE. HE HOLDS A BACHELOR'S DEGREE IN ELECTRICAL ENGINEERING FROM THE UNIVERSITY OF CALCUTTA. HE IMMIGRATED TO THIS GREAT COUNTRY ON MAY 31, 1969.

PRIOR TO COMING TO THE UNITED STATES

HE HAD GAINED TOO YEARS OF EXPERIENCE IN

COMPUTER SOFTWARE WITH TOO REPUTABLE

COMPUTER MANUFACTURERS IN ENGLAND. HE

WAS ADMITTED TO THIS COUNTRY AS AN ALIEN

WHO IS A MEMBER OF A PROFESSION FOR

WHICH THERE IS AN AVAILABLE MARKET FOR

HIS PROFESSIONAL SERVICES & USCA 1153(4)(3).

EVER SINCE THE APPELLANT LANDED IN THE LAND OF OPPORTUNITY, HE HAS BEEN LOOKING FOR A JOB.

THE ADDELLANT FILED CHARGES OF DISCRIMINATION WITH THE EQUAL EMPLOYMENT



OPPORTUNITY COMMISSION (EEOC) ON FEBRUARY

21, 1971, CHARGING THE APPELLEE, SPERRY

RAND CORPORATION (SPERRY RAND), WITH

DISCRIMINATION ACRINST WIH BECAUSE OF HIS

NATIONAL ORIGIN. ON OR ABOUT JUNE 17,

1974, THE EEOC DISMISSED THE CHARGE ON

GROUNDS OF NO REASONABLE CAUSE THAT

DISCRIMINATION OCCURRED.

ON JULY 24, 1974, THE APPELLANT

COMMENCED THE INSTANT ACTION: ACAINST THE

COMMENCED THE INSTANT ACTION: ACAINST THE APPELLANT

COMMENCED THE INSTANT ACTION: ACAINST THE APPELLEE FOR VIOLATION OF TITLE III. OF THE CIVIL RICHTS ACT OF 1964, AS AMENDED

BY THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972, 42 USCA 2000R & DE., BASED ON 115

FAILURE OR REFUSAL TO HIRE HIM AS A PROGRAMMER - ANALYST BERAUSE OF HIS NATIONAL ORIGIN.

THE APPELLEE THEN. BY ITS ATTORNEYS,

DEPOSED THE APPELLANT, PURSUANT TO ROLES

26 AND 30 OF THE F.R. EIU. P.; AND WITHOUT

GIVING THE APPELLANT A REASONABLE OPPORTUNITY TO REVIEW THE DEPOSITION, THE APPELLEE FILED IT WITH THE CLERK OF THE COURT ON DECEMBER 31, 1974. SUBSEDDENTLY, THE APPELLANT AMENDED HIS COMPLAINT, WITH THE APPELLEE'S PRIOR CONSENT, TO INCLUDE AND ENUMERATE FIFTEEN SPECIFIC DATES FROM 1969 TO 1974, WHEN HE WAS DENIED EMPLOYMENT BY SPERRY RAND AFTER APPLYING TO ITS VARIOUS OFFICES IN NEW YORK, NEW JERSEY, PENNSYLUANIA, AND CONNECTICUT. THEREAFTER , ON FEBRUARY 10. 1995 , THE APPELLANT SERVED A SET OF NINE INTERROGA. TORIES, PURSUANT TO ROLE 33(a) OF THE F. R. CIV. P. , ON THE COUNSEL FOR THE APPELLEE. SPERRY RAND ANSWERED NUMBER 1 IN ABBREVIATED FASHION, PORTIALLY ANSWERED NUMBERS 2.3.6.7 18. AND, IN LIEU OF ANSWERING IN FULL, OBJECTED TO NUMBERS

2 THROUGH 9, ON THE GROUNDS OF BURDEN. SOMENESS, IRRELEVANCE, AND/OR VAGUENESS. THE APPELLEE THEN MADE A MOTION, PURSUANT TO RULE 37(0) OF THE F.R. CIV.P., TO COMPEL THE APPELLEE TO ANSWER INTERROGATORIES 2 THROUGH 9, ON THE GROUND THAT FAILURE TO ANSWER THEM WERE WITHOUT SUBSTANTIAL JUSTIFICATION. ON JUNE 12, 1975, THE TRIAL COURT DIRECTED THE APPELLEE TO GIVE PARTIAL ANSWERS TO INTERROGATORIES 718, AND DENIED THE APPELLANT'S MOTION TO COMPEL ANSWERS TO INTERROGATORIES 2, 3, 4, 5, 8 19 IN ALL RESPECTS. IMMEDIATELY THEREAFTER, THE APPELLANT MADE A MOTION, PURSUANT TO RUCE 9(W) OF THE GENERAL RULES FOR THE EASTERN DISTRICT OF NEW YORK, FOR AN ORDER GRANTING HIH LEAVE TO REARGUE HIS MOTION TO COMPEL THE APPELLEE TO ANSWER ALL THE INTERROGATORIES,

ON THE BROWND THAT OPEN DISCLOSURE OF ALL
POTENTIALLY RELEVANT INFORMATION IS THE
KEYNOTE OF DISCOVERY PROVISIONS OF THE FEDERAL
RULES OF CIVIL PROCEDURE.

ALONG CITH THE SAID MOTION, THE APPELLANT
ALSO MOVED FOR AN ORDER, PURSUANT TO RULE
32(0)(G) OF THE F.R. RIV. P., SUPPRESSING THE
DEPOSITION OF BISCAMATH HALDER, ON THE
GROUND THAT THE SAID DEPOSITION HAS BEEN

ALSO MOVED TOR AN ORDER, PORSURNT TO ROLE

32(8)(6) OF THE F.R. CIV. P., SUPPRESSING THE

DEPOSITION OF BISCAMATH HALDER, ON THE

GROUND THAT THE SAID DEPOSITION HAS BEEN

SUBSTANTIALLY ALTERED BY THE APPELLEE TO

THE APPELLANT'S DISADVANTAGE, AND ALSO FOR

AN ORDER, PORSUANT TO RULE IS(8) OF THE

F.R. CIV. P., TO FILE AN AMENDED COMPLAINT

TO INCLUDE A CAUSE OF ACTION UNDER THE

CIVIL RICHTS ACT OF 1866, AS AMENDED

BY THE ENFORCEMENT ACT OF 1870, 42 USCA

1981, AS WELL AS TO ADD COLOR, RELIGION.

AND ALIENACE AS CROUNDS OF DISCRIMINATION.

ON FEBRUARY 9, 1976, THE TRIAL COURT

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TO ANSWER CERTAIN INTERROGATORIES.

THE FOLLOWING DAY THE TRIAL COURT

DISMISSED THE COMPLAINT, PURSUANT TO RULE

41 (b) OF THE F.R. ZIV.R., ON THE GROUND

THAT THE APPELLANT FAILED TO PROCEED TO

TRIAL BECAUSE OF INCOMPLETION OF PRE-TRIAL

DISCOVERY.

## ARGUMENT THE SUPREME COURT HAS LONG MAINTAINED THAT "THE RIGHT TO WORK FOR A LIVING IN THE COMMON OCCUPATIONS OF THE COMMUNITY IS OF THE VERY ESSENCE OF THE PERSONAL FREEDOM AND OPPORTUNITY THAT IT WAS THE PURPOSE OF THE [FOURTEENTH] AMENDMENT TO SECURE." TRUNK V RAICH, 1915, 239 U.S. 33, 41, 36 S. Ct. 7, 10. NEARLY ONE HONDRED YEARS AFTER THE ADOPTION OF THE FOURTEENTH AMENDMENT, CONCRESS ENACTED TITLE III OF THE CIVIL RICHTS ACT OF 1964, THE PURPOSE OF WHICH IS NOT TO MAKE A PROGRAMMER OF MINORITY NATIONAL ORIGIN IN THE UNITED STATES AN ERSTWHILE PROGRAMMER. IN SPITE OF THAT THE UNLAWFUL EMPLOYMENT POLICIES AND PRACTICES OF THE BILLION DOLLAR ENTERPRISE, SPERRY RAND CORPORATION, HAS MADE THE

POOR HAN, BISWANATH HALDER, AN ERSTWHILE COMPUTER PROGRAMMER. ROSENFELD AFFIDAVIT OF OS 14-1975, PAGE 2, PARA 2. THE BILLION DOLLAR CORPORATE DEFENDANT THEREBY PROVED. THAT LAW AND ORDER BANNOT GOVERN AMERICA.

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# POINT I LEAVE TO AMEND PLEADING IS FREELY GIVEN WHEN JUSTICE SO REQUIRES

THE APPELLANT IS AN ENGINEER, AND A
LAYMAN IN MATTERS OF CAG. THE SUPPEHE COURT
HAS LONG RECOGNIZED THAT "EVEN THE INTECLIGENT
AND EDUCATED LAYMAN HAS SMALL AND SOMETIMES
NO SKILL IN THE SCIENCE OF LAG." POWELL V
ALABAMA, 1932, 287 U.S. 45, 89, 53 S.CA. 55, 84.

THE APPELLANT'S ASSUMPTION GAS THAT THE ORIGINAL CHARGE OF DISCRIMINATION ON THE BASIS OF NATIONAL ORIGIN DID IN FACT TAKE INTO ACCOUNT HIS BEING NON-CHITE (COLOD), NON-CHRISTIAN (RECICION), AND A NON-CITIZEN (ALICNAGE), WHEN THE APPELLANT REALIZED THE DEFICIENCY IN HIS COMPLAINT, HE MOVED TO AMEND THE COMPLAINT TO ADD A CAUSE OF ACTION UNDER 42 USCA 1981, AND ALSO TO ADD ADDITIONAL CROUNDS OF DISCRIMINATION.

ROLE IS(G) OF THE FEDERAL ROLES OF

BIVIL PROCEDURE PROVIDES IN PERTINENT

PART, THAT "A PARTY MAY AMEND HIS PLEADING

ONLY BY LEAVE OF COURT ...; AND LEAVE

SHALL BE FORELY GIVEN WHEN JUSTICE SO

REROIRES."

THE APPLICABLE STANDARD FOR DETERMINING

WHETHER TO GRANT LEAVE FOR THE FILING OF

AN AMENDED COMPLAINT HAS BEEN STATED BY

THE SUPREME COURT:

"THE APPLICABLE QULE IS RULE IS OF THE

FEDERAL RULES OF CIVIL PROCEDURE, WHICH

WAS DESIGNED TO FACILITATE THE AMENDMENT

OF PLEADINGS EXCEPT WHERE PREJUDICE TO

THE OPPOSING PARTY WOOLD RESULT." UNITED

SATES V HOUGHAM, 1960, 360 U.S. 310, 316,

81 S.CI. 13, 18; SEE MSO ZEWITH RADIO CORPORATION

V HATELTINE RESERRAN, INC., 1971, 401 U.S.

321, 330-1, 91 S.CI. 795, 802.

MORROURR, THIS IS PARTICULARLY

APPLICABLE WHEN THE PLAINTIFF IS APPEARING PRO SE, AND THE COMPLAINT IS HELD "TO LESS STRINGENT STANDARDS THAN FORMAL PLEADINGS DRAFTED BY LAWRES ... "HAINES V WERNER, 1972, 404 U.S. 519, 520, 92 S.Ct. 594, 596.

THE CRITICAL ELEMENT, THEREFORE, IN DETERMINING WHETHER TO GRANT LEAVE TO FILE AN AMENDED COMPLAINT IS PREJUDICE TO THE OPPOSING . PARTY JAKOBSEN V MASSACHUSETTS PORT AUTHORITY, 520 F. 20 810, 813, CA 1 1975; CLAY V MARTIN, 509 F. 20 109, 113, CA 2 1975; HOBEMAN V SIGNAL L.P. 6AS, INC., 486 F.20 679, 484, CA 6 1973; HOWEY V UNITED STATES, 481 F. 20 1189, 1190, CA 9 1973; HANSON V WUNT OIL COMPANY, 398 F. 20 578, 582, CA 8 1968; SOURAY OIL CORPORATION V SHARPE, 209 F. 20 937, 939-40, CA 5 1956 KERRIGAN'S ESTATE V SERCRAH & SONS, 199 F. 20 694, 696, CA 3 1952.

JN THE INSTAUT ACTION, NO PREJUDICE
WOULD RESULT TO THE APPELLEE IF THE
APPELLANT IS ALLOWED TO FILE AN AMENDED
COMPLAINT,
FURTHERHORE, THE "LELISLATIVE ENACTMENTS

THE CESSENTIVE ENACTMENTS

IN [THE AREA OF EMPLOYMENT DISCRIMINATION]

HAVE CONG EVINCED A GENERAL INTENT TO

ACCORD PARALLEL OR OVERLAPPING REMEDIES:

ACAINST DISCRIMINATION," ALEXANDER V GARDNER:

DENUER COMPANY, 1974, AIS 0.5 36, 47, 94 5 CL.

1011, 1019, AND THAT "THE FILING OF A TITLE

THE CHARGE AND RESORT TO TITLE TH'S

ADMINISTRATIVE MACHINERY ARE NOT PREFEROISIES FOR THE INSTITUTION OF A SECTION

1981 ACTION." JOHNSON V RAILDAY EXPRESS

ACENCY, 1975, 421 0.5. 454, 460, 95 S.C. 1716, 1720.

THE SPITE OF THAT THE TRIAL COURT

DENIED THE APPECLANT'S MOTION TO AMEND THE

COMPLAINT TO INCLUDE A CAUSE OF ACTION

ONDER SECTION 1981, ALTHOUGH THE APPELLANT

- WHO IS NEITHER CHITE, NOR A CITIZEN OF THE UNITED STATES, BUT A RESIDENT ALIEN WHO FALLS WITHIN THE JURISDICTION OF THE UNITED STATES - HAS THE SAME RIGHT TO MAKE AND ENFORCE EMPLOYMENT CONTRACTS AS IS ENJOYED BY WHITE CITIZENS SUD V IMPORT MOTORS CIMITED, 379 C. SUH, 1064, 1071-2, WD MI 1976; GUEERA V MANCHESTER TERMINAL CORPORATION. 350 F. SULF. 529, 536, SD TX 1992, ACE'D IN PART, REUD ON OTHER GROUNDS 498 F. 20 641, 653 4, CA 5 1934; LEAGUE OF ACADEMIC WOMEN V RECENTS OF UNIVERSITY OF CALIFORNIA, 363 F. SUH. 636, 638.9, ND CA 1972; SHARMA V OPPORTUNITIES INDUSTRIACIZATION CENTER OF CREATER MILLORUNEE, 342 F. SUN. 209, ED WI 1972.

"OF COURSE, THE GRANT OF DENIAL OF

AN OPPORTUNITY TO AMEND IS WITHIN THE

DISCRETION OF THE DISTRICT COURT ... ."

FOMAN V DAVIS, 1962, 271 U.S 178, 182, 83 S.C.

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227, 230, SEE ALSO ZENITH RADIO CORPORATION V HADELTINE RESEARCH, INC. , 1971, 401 U.S. 321, 330, 91 5.21 795, 802. BUT SUCH A DISCRETIONARY CHOICE IS NOT LEFT TO A COURT'S "INCLINATION, BUT TO ITS JUDGMENT; AND ITS JUDGMENT IS TO BE COIDED BY SOUND LEGAL PRINCIPLES " UNITED STATES V BURR, 1861, 25 FEDERAL CASES NO. 14, 6920, pp 30, 35 (MARSHALL, E.J.). "OUTRIGHT REPUSAL TO GRANT THE CEAVE TO AMEND THE COMPLAINT ] WITHOUT ANY JUSTIFYING REASON APPEARING FOR THE DENIAL IS NOT AN EXERCISE OF DISCRETION; IT IS MERELY ABUSE OF THAT DISCRETION AND INCONSISTENT WITH THE SPIRIT OF THE FEDERAL RULES." FOMAN V DAVIS, 1962, 301 U.S. 198, 182, 83 5 Ct. 227, 230. AS SUCH IT IS APPARENT THAT THE COURT BELOW ABUSED ITS DISCRETION IN DENYING 1.5

THE APPELLANT HIS MOTION FOR LEAVE TO AMEND THE COMPLAINT, AND THAT THE SAID DECISION SHOULD BE DEVERSED.

POINT II OPEN DISCLOSURE OF ALL POTENTIALLY RECEVANT INFORMATION IN THE ADVERSORY SYSTEM OF TRIAL IS BOTH FUNDAMENTAL AND COMPREHENSIVE CONGRESS ENARTED TITLE IN OF THE CIVIL RIGHTS ACT OF 1964 "TO ACHIEVE ERUALITY OF EMPLOYMENT OPPORTUNITIES AND REMOVE BARRICAS THAT HAVE OPERATED IN THE PAST TO FAVOR AN IDENTIFIABLE GROUP OF CHITE [APPLICANTS] OVER OTHER [APPLICANTS FOR EMPLOYMENT]. GRIGGS V DUKE POWER COMPANY, 1971, 401 U.S. 424, 429 30, 91 S.Ct. 849, 853. HODEVER, "THE ACT DOES NOT COMMAND" THAT ANY PERSON BE HIRED SIMPLY BECAUSE HE . . . IS A MEMBER OF A MINORITY GROUP." 10., 401 U.S. of 430.1, 91 s.et. of 853. "INDEED, THE VERY PURPOSE OF TITLE IN IS TO PROMOTE HIRING ON THE BASIS OF . JOB QUALIFICATIONS, RATHER THAN ON THE

BASIS OF [COLOR, OR RELIGION, OR NATIONAL ORIGIN] " 18., 401 U.S. of 434, 91 5 cr. et 855.

THE APPELLANT HAS BEEN SEFKING EMPLOYMENT COITH THE APPELLEE AS A PROGRAMMER - ANALYST EVER SINCE HE IMMIGRATED TO THE UNITED STATES. AND ALTHOUGH HIS BACKGROUND — TRAINING IN ELECTRICAL ENGINEERING AND EXPERIENCE IN ASSEMBLY LANGUAGE PROGRAMMING — PERFECTLY MATCHED GREAT HANY, OF THE APPELLEE'S JOB REQUIREMENTS OVER THE PAST SEVEN YEARS, HE HAS NEVER BEEN OFFERED A JOB. THE APPELLEE CONTENDS, HOWEVER, THAT THE PROGRAMMERS AND ANALYSTS HIRED DURING THAT PERIOD OF TITLE POSSESSED ROALIFICATIONS SUPERIOR TO THOSE OF THE

THE INTERROGATORIES PROPOUNDED BY THE APPELLANT PRIHABILY EACH FOR THE QUALIFICATIONS OF THE PROGRAMMERS AND ANALYSTS HIRED BY THE APPELLEE DURING THAT PERIOD.

THE APPELLEE OBJECTED TO THOSE INTERROGATORIES ON THE CROUNDS OF BURDENSOMENESS AND IRRELEVANCE. ANSWERS AND OBJECTIONS TO INTERROCATORIES, DATED 03-14-1975. AND THE TRIAL COURT SUSTAINED THOSE OBJECTIONS ON THE EROUND THAT THE INFORMATION SOUCHT WOULD HAVE LIMITED PROBATIVE VALUE ON THE APPELLANT'S CASE. MEMORANDUM OF DECISION AND ORDER, DATED 06-12-1975, PAGE 4. IT IS WELL ESTABLISHED THAT A CAUSUIT IS NOT A CONTEST IN CONCERLMENT, AND THAT THE DISCOVERY PROCESS WAS ESTABLISHED

15 NOT A CONTEST IN CONCERLMENT, AND
THAT THE DISCOVERY PROCESS WAS ESTABLISHED
SO THAT "EITHER PARTY MAY COMPEL THE
OTHER TO DISCORGE WHATKVER FACTS HE HAS
IN HIS POSSESSION." HICKMAN V TAYLOR, 1947,
329 U.S. 495, 507, 47 S.CH. 385, 392

THE BROAD SCOPE OF DISCOVERY AS
ARTICULATED IN THE TENT IS ALSO REFLECTED
IN AN OPINION BY JUDGE LEAHY SHORTLY

AFTER THE ADOPTION OF THE FEDERAL RULES OF CIVIL PROCEDURE: "UNLESS IT IS PALPABLE THAT THE EVIDENCE SOUGHT CAN HAVE NO POSSIBLE BEARING UPON THE ISSUES, THE SPIRIT OF THE NEW RULES PALLS FOR EVERY RELEVANT FACT. HOUEVER REHOTE, TO BE BROUGHT OUT FOR THE INSPECTION NOT ONLY OF THE OPPOSING PARTY BUT FOR THE BENEFIT OF THE COURT WHICH IN DUE COURSE CAN ECIMINATE THOSE FACTS WHICH ARE NOT TO BE CONSIDERED IN DETERMINING THE OCTIMATE ISSUES " HERRULES POUDER COMPANY V ROHM & HAAS COMPANY, 3 F.R.D. 302, 304, DE DE 1963.

MORFOURE, THE SOPRCHE COURT MADE IT

CLEAR THAT THE "DISCOVERY RULES ARE TO

BE ACCORDED A BROAD AND LIBERAL TREATMENT,

AND THAT "HUTUAL KNOWLEDGE OF ALL THE

RELEVANT FACTS CATHERED BY BOTH PARTIES

IS ESSENTIAL TO PROPER LITIGATION."

HICKMAN V TAYLOR, 1967. 329 U.S. 495, 507, 67 s. Ct. 385, 392. "IN THE PROBLEM OF [EMPLOYMENT] DISCRIMINATION STATISTICS OFTEN TELL MUCH, AND COURTS LISTEN." ALABAMA V UNITED STATES, 306 F. 28 583, 586, CA 5 1962; AFF') DEC CURIAM 1962, 371 U.S. 37, 83 5 Ct. 165; SER ALSO UNITED STATES V LIDYES INTERNATIONAL CORPORATION, 456 F. 28 112, 120, CA 5 1972. THE SUPREME COURT HAS CIVEN CLEAR GUIDELINES ON THE STATISTICS ESSENTIAL TO A JOB BIAS COMPLAINANT TO ESTABLISH A PRIMA FACIE CASE : "STATISTICS AS TO [APPELLER'S] EMPLOYMENT POLICY AND PRACTICE MAY BE HELPFUL TO A DETERMINATION OF WHETHER [APPELLEE'S] REFUSAL TO [HIRE] [APPELLANT] ... CONFORMED TO A BENERAL PATTERN OF DISCRIMINATION AGAINST [MINORITIES]. MEDONNELL DOUGLAS CORPORATION V GREEN,

1973, 411 U.S. 792, 805, 93 S.CF. 1817, 1825.

THE INFORMATION SOUGHT BY THE APPELLANT TUROUGH INTERROGATORIES CALLS FOR THE STATISTICS AS TO THE APPELLEE'S EMPLOYMENT POLICY AND PRACTICE. FAR FROM BRING BURDENSOME AND IRRELEVANT, THE INTERROGA. TORIES ARE ENTIRELY "RELEVANT TO THE SUBJECT MATTER INVOLVED IN THE PENDING ACTION." AND THAT "THE INFORMATION SOUGHT APPEARS REASONABLY CALCULATED TO LEAD TO THE DISCOUERY OF ADMISSIBLE EVIDENCE." RULE 26(b)(). FEDERN RULES OF RIVIL PROCEDURE. SEE ALSO TABATEHNICK V 6.D. SEARLE & COMPANY, 87 F.R.D. 49,54, DC NJ 1975; UNITED STATES V IBM CORPORATION, 86 F. R.D. 215, 218, SD NY 1974; SAYRE V ABRAHAM LINEOLN FEDERAL SAVINGS & LOAN ASSOCIATION, 65 F. P.D. 379, 382, ED PA 1974; LA CHEHISE LACOSTE V ALLIGATOR COMPANY, 60 F.R.D. 164, 171, DE DE 1973; SOUTHERN

- 22 -

RAIL WAY COMPANY V LANNAH, 403 F. 28 119,
129, CA 5 1968, REHEARING EN BANE DENJED
1969.

SINCE "ZIVIC TRICLS IN THE FEDERAL
COURTS NO CONGER NEED BE CARRIED ON
IN THE DARK," HICKMAN V TAYLOR, 1947,
329 U.S. 495, SOI, 67 S.Ch. 385, 389, THE
SUPREME ZOURT MANDATED THAT "ON ...

[TRIAL] [APPELLANT] MUST BE GIVEN A FULL
AND FAIR OPPORTUNITY TO DEMONSTRATE BY
COMPETENT EVIDENCE THAT THE PRESUMPTIVELY
VALID REASONS FOR HIS REJECTION WERE IN
FACT A COUCRUP FOR A ... DISCRIMINATORY
DECISION." MCDONNELL DOUGLAS CORPORATION
V CREEN, 1973, 411 U.S. 792, 805, 93 S.Ch.
1817, 1826

THE COURT SHOULD EVER BE MINDFUL

THAT "THE NEED TO DEVELOP ALL RECEVANT

FACTS IN THE ADVERSARY SYSTEM IS BOTH

FUNDAMENTAL AND COMPREHENSIVE" UNITED

STATES V NIXON. 1974, 418 U.S. 683, 709, 94 s.et. 3090, 3108. MOREOVER, "THE EXPERIENCE OF THE FEDERAL COURTS OVER THE LAST TWO DECADES HAS BEEN THAT . . . DISECIMINATION IN EMPLOYMENT ... IS OFTEN SUBTLE AND NOT EASILY PROVED. THE CONSEQUENCES OF SUCH DISCRIMINATION ARE MOST GRAVE, BOTH FOR THE INDIVIDUAL VICTIM AND FOR SOCIETY AT LARGE." BOOTH V PRINCE GEORGE'S COUNTY, MARYLAND, 66 F.R.D. 466, 473, DE MD 1995. THEREFORE, THE NECESSITY FOR LIBERAL DISCOVERY TO CLERIFY THE COMPLEX ISSUES ENCOUNTERED IN CITICATION SEEKING TO REPRESS EMPLOYMENT DISCRIMINATION HAS BEEN WIDELY RECOGNIZED. BURNS V THIOKOL CHEMICAL CORPORATION, 483 1.28 300, CA 5 1973. "DEPRIVED OF AN HISTORICAL OVERVIEW IN THESE SITUATIONS, JUSTICE WOULD SURELY BE BLIND." UNITED STATES V 24 -

JACKSONVILLE TERMINAL COMPANY, 451 F 20 418,

441, CA S 1971. WERE JUSTICE TO BE

DEPRIVED OF AN HISTORIERL OVERVIEW OF THE

CONTEXT IN CHICH SPERRY RAND CORPORATION

MADE BISWANATH HALDER AN ERSTWHILE

COMPUTER PROGRAMMER ?

IT IS A WELL-ESTABLISHED DOCTRINE

THAT THE SCOPE AND CONDUCT OF DISCOVERY
ARE WITHIN THE SOUND DISCRETION OF THE
TRIAL JUDGE. BAKER V F R F INVESTMENT.

470 F.28 778, 781, CA 2 1972, CERT. DENIED

1973. GII U.S. 966, 93 S.Ch. 2147; MONTREATINI
EDISON S P.A. V E.I. DU PONT DE NEMOURS
& COMPANY. 434 F 28 70, 72, CA 3 1970;

SOUTHERN CAILDAY COMPANY V LANHAM, 403

F. 28 119, 126, CA S 1968; BANK OF AMERICA
NATIONAL TRUST AND SAVINGS ASSOCIATION
V HAYDEN, 231 F 28 595, 606, CA 9 1956;

ATLAILTIC CREYHOUND CORPORATION V LAURITTEN,

182 F. 28 540, 542, CA 6 1950; CARTER V

BALTIHORE & O.R. ZOMPANY, 152 F. 28 129, 130-1,

EN DE 1945.

"BUT THE JUDGE'S DISCOVERY RULINGS,

CIKE HIS OTHER PRODEDURAL DETERMINATIONS,

ARE NOT ENTIRELY SACROSANCT. IF HE FAILS

TO ADHERE TO THE LIBERAL SPIRIT OF THE

RULES [THE APPELLATE ZOURT] MUST REVERSE."

BURNS V THIOKOL CHEMICAL ZOMPANY, 283

F. 28 300, 305, RA S 1993.

FINALLY, "THE VERY INTEGRITY OF THE ...

JUDICIAL SYSTEM AND PUBLIC CONFIDENCE IN

THE SYSTEM DEPEND ON FULL DISCLOSURE OF

ALL THE FACTS, WITHIN THE FRANCHORK OF

THE RULES OF EVIDENCE." UNITED STATES V

MIXON, 1974, 418 U.S. 883, 709, 94 S.CI. 3090, 3108.

AS SOCH IT IS APPARENT THAT THE COURT BELOW ABUSED ITS DISCRETION IN DENYING THE APPELLER APPELLER APPELLER APPELLER TO ANSWER CERTAIN INTERROLATORIES, AND THAT THE SAID DECISION SHOULD BE REVERSED.

POINT TO DISMISSAL OF THE COMPLAINT FOR

LACK OF PROSECUTION THE DAY

AFTER DENVINE THE PLAINTIFF'S

DISCOVERY MOTION IS NOTHING BUT

JUDICIAL USURPATION AND OPPRESSION

AND CAN NEVER BE UPHELD WHERE

JUSTICE IS JUSTLY ADMINISTERED

IT IS WELL-ESTABLISHED THAT, UNDER

RULE 41(b) OF THE FEDERAL CULES OF CIVIL

RULE 41(B) OF THE FEDERAL CULES OF ZIVIL

PROCEDURE, THE TRIAL COURT HAS THE

DISCRETION TO DISMISS A COMPLAINT, WITH

PREJUDICE, FOR FAILURE TO PROSECUTE. LINK

V WABASH RAILROAD COMPANY, 1962, 370 U.S.

826, 829, 82 S 81. 1386, 1388; FLAKEA V LITTLE

RIVER MARINE CONSTRUCTION COMPANY, 389

F. 20 885, CA S 1968, GERT, DEN. 1968, 392

U.S. 928, 88 S CL. 2287; VINDIGNI V HEYER,

441 C. 20 376, CA 2 1971.

BUT DISMISSAL IS A HARSH SANCTION.

AND SHOOLD BE RESORTED TO ONLY IN EXTREME SITUATIONS. NAVARRO V RHIEF OF POLICE, DES MOINES, IOWA, 523 F.20 214, 217, RA 8 1975; SEARVER V ALLEN. 457 F.20 308, 310. RA 7 1972; RICHMAN V GENERAL MOTORS CORPORATION, 437 F.20 196, 199, RA 1 1971; MEEKER V RIZLEY, 324 F.20 269, 272. RA 10 1963.

COURTS INTERPRETING THE RULE UNIFORMLY HOLD THAT IT CANNOT BE AUTOMATICALLY OR MECHANICALLY APPLIED. ACAINST THE DOWER TO PREVENT DELAYS MUST BE WEIGHED THE SOUND PUBLIC POLICY OF DECIDING CASES ON THEIR HERITS. DYOTHERM CORPORATION V TURBO MACHINE COMPANY, 392 F.20 Ide, Ida, CA 3 1968; DAVIS V OPERATION AMIGO, 378 F.20 IOI, IO3, CA IO 1967; COUNCIL OF FEDERATED ORGANIZATIONS V MIZE, 339 F.20 898, 901, CA 5 1964.

CONSEQUENTLY, DISMISSAL "MUST BE TEMPERED BY A CAREFUL EXERCISE OF

JUDICIAL DISCRETION." DURGIN V GRAHAM, 372 F. 28 130, 131, CA 5 1967. WHILE THE PROPRIETY OF DISMISSAL ULTIMATELY TURNS ON THE FACTS OF EACH CASE, CRITERIA FOR JUDGING WHETHER THE DISCRETION OF THE TRIAL COURT HAS BEEN SOUNDLY EXERCISED HAVE BEEN STATED FREQUENTLY CONNOLLY V PAPACHRISTID SHIPPING LIMITED. 504 F. 20 917, 920, RA 5 1974; BUSH V UNITED STATES POSTEL SERVICE, 496 F 28 42, 44, RA 6 1974. IT HAS BEEN OBSERVED THAT WHILE DILMISSAL IS A DISCRETIONARY MATTER, THE DECIDED CASES "HAVE GENERALLY PERMITTED IT ONLY IN THE FACE OF A CLEAR RECORD OF DELAY OR CONTOMACIOUS CONDUCT BY THE PLAINTIFF." DURHAM Y FLORIDA EAST COAST RAILDAY COMPANY, 385 E. 28 366, 368, EA 5 1967. THE APPELLATE COURTS FREQUENTLY HAVE FOUND ABUSE OF DISCRETION WHEN TRIAL COURTS FAILED TO APPLY SANCTIONS LESS - 29 -

SEVERE THAN DISMISSAL. REIZAKIS V LOY,

490 F.28 1132, RA & 1934; POND V BRANIFE

AIRWAYS, 453 F 28 347, RA S 1932; RICHMAN

V GENERAL MOTORS CORPORATION, 437 F.28 196,

RA I 1931; BROWN V THOMPSON, 430 F.28 1214,

RA S 1930.

ALSO LARK OF PREJUDICE TO THE

DEFENDANT, THOUGH NOT A BAR TO DISMISSAL,

IS A FACTOR THAT SHOULD BE CONSIDERED

IN DETERMINING WHETHER THE TRIAL COURT

EXERCISED SOUND DISCRETION. BROWN V O'LEARY,

IF THE FACTS DO DEPICT THAT THE

PLAINTIFF "HAD BEEN DECIBERATELY PROCEEDING
IN DILATORY FASHION," CINK V WABASH

RAILROAD COMPANY, 1962, 370 U.S &26, \$33, 82

S.CL. 1386, 1390, THE DECAY "WOULD CERTAINLY

HAVE DUSTIFIED THE COURT IN DISHISSING
THE ACTION ON ITS OWN MOTION." REDFIELD

512 6.20 485,486, CD 5 1905; BUSH V UNITED

STATES POSTAL SERVICE, 496 F. 20 62, 46, CA 6 1974.

- 30 -

V YSTALYFERA IRON COMPANY, 1884, 110 U.S. 174,
176, 3 S.Ch. 570, 572.

IN THE INSTANT ACTION, THE PLAINTIFF.

APPELLANT HAS BEEN VICOROUSLY PROSECUTING

APPELLANT HAS BEEN VICOROUSLY PROSECUTING
HIS ACTION THROUGHOUT. ON JONE 12. 1975.
THE TRIAL COURT DENIED THE APPELLANT'S
MOTION TO COMPEL THE APPELLEE TO AUSWER
CERTAIN INTERROCATORIES. IMMEDIATELY
THEREAFTER, THE APPELLANT MADE A MOTION.
RETURNABLE JULY II, 1975, FOR A REARCOMENT
OF THE SAID MOTION. THE TRIAL COURT DERIDED
THE SAID MOTION ON FEBRUARY 9. 1976. AND
THE FOLLOWING DAY DISMISSED THE ACTION
FOR LACK OF PROSECUTION.

THIS UTTERLY ARBITRARY, CAPRICIOUS,

AND WHIMSICAL ACTION OF THE TRIAL JUDGE

IS NOTHING BUT "JUDICIAL USURPATION AND

OPPRESSION, AND NEVER CAN BE UPHELD

WHERE JUSTICE IS JUSTLY ADMINISTERED"

CALPIN Y PAGE, 1873, 85 U.S. (18 WALLACE)

350, 369 MOREOVER, "THERE ARE CONSTITUTIONAL LIMITATIONS UPON THE POWER OF COURTS, EVEN IN AID OF THEIR OWN VALID PROCESSES. TO DISMISS AN ACTION WITHOUT AFFORDING A PARTY THE OPPORTUNITY FOR A HEARING ON THE MERITS OF HIS COUSE." SOCIETE INTERNATIONALE V ROCERS, 1958, 357 U.S. 197, 209, 78 5.21. 1087, 1094. THE JUDGE SHOULD BEAR IN MIND THAT "THE FUNDAMENTAL CONCEPTION OF A COURT OF JUSTICE IS CONDEMNATION ONLY AFTER HEARING. TO SAY THAT COURTS HAVE INHERENT POWER TO DENY ALL RIGHT TO [PROSECUTE] AN ACTION, AND TO RENDER DECREES WITHOUT ANY HEARING WHATEVER, IS, IN THE VERY NATURE OF THINKS, TO CONVERT THE COURT EXERCISING SUCH AN AUTHORITY INTO AN INSTRUMENT OF WRONG AND OPPRESSION, AND HENCE TO STRIP IT - 32 -

OF THAT ATTRIBUTE OF JUSTICE UPON WHICH THE EXERCISE OF JUDICIAL POWER NECESSARILY DEPENDS " HOUEY V ELLIOTT, 1897. 167 U.S. 409, 413-4, 17 5.61. 841, 843. FURTHERMORE, "IF SUCH AUTHORITY EXISTS, THEN, IN CONSEQUENCE OF THEIR ESTABLISH. MENT , TO COMPEL OBEDIENCE TO LAW, AND TO ENFORCE JUSTICE, COURTS POSSESS THE RIGHT TO INFLICT THE VERY WRONGS WHICH THEY WERE EREATED TO PREVENT. " ID., 189 U.S. at 418, 17 set. at 844. SUCH ADMINISTRATION OF INJUSTICE "WOULD CONVERT THE JUDICIAL DEPARTHENT OF THE GOVERNMENT INTO AN ENGINE OF OPPRESSION, AND WOULD MAKE IT DESTROY GREAT CONSTITUTIONAL SAFEGUARDS." 18., 167 U.S. at (119, 17 5.C). at 845. THE COURT SHOULD EVER BE MINDFUL THAT THE "RULES OF PRACTICE AND PROCEDURE ARE DEVISED TO PROMOTE THE ENDS OF JUSTICE, - 33 -

NOT TO DEFEAT THEM. " HORMEL V HELVERING,

INDEED, THE VERY FIRST RULE OF THE

FEDERAL RULES OF RIVIL PROREDURE DIRECTS

THE ROURTS TO ROUSTRUE THOSE RULES "TO SERVERE

THE JUST, SPEEDY, AND INEXPENSIVE DETERMINATION

OF EVERY ACTION:"

"IF RULES OF PROCEDURE WORK AS THEY
SHOULD IN AN HONEST AND FAIR JUDICIAL

SYSTEM, THEY NOT ONLY PERMIT, BUT SHOULD

AS NEARLY AS POSSIBLE CUARANTEE THAT BONA

FIDE COMPLAINTS BE CARRIED TO AN ADJUDICATION
ON THE MERITS." SUROWITZ V WILTON HOTELE

CORPORATION, 1964, 383 U.S. 363,373, 86 S.Cf. 865,851.

17 IS AN ESTABLISHED FACT THAT "WHETHER

IN NAME OR NOT, THE SUIT IS PERFORCE A

SORT OF CLASS ACTION FOR FELLOW [PERSONS]

SIMILARLY SITUATED." JENKINS V UNITED GAS

CORPORATION, 400 F.28 28,33, CA 5 1968.

THEREFORE, "THE TRIAL COURT BEARS A

SPECIAL RESPONSIBILITY IN THE FUBLIC INTEREST TO RESOLVE THE DISPUTE BY DETERMINING THE FACTS REGARDLESS OF THE POSITION OF THE INDIVIDUAL PLAINTIFF." BOWE V COLCATE PALMOLIVE COMPANY, 416 F. 20 711, 715, CA 7 1969. "CONCRESS, IN ENRETING TITLE IT, THOUGHT IT NECESSARY TO PROVIDE A JUDICIAL FORUM CHOLOYMENT CLOIMS. IT IS THE DUTY OF COURTS TO

FOR THE OLTIMATE RESOLUTION OF DISCRIMINATORY ASSURE THE FULL AVAILABILITY OF THIS FORUM." PLEXANDER V GARDNER DENVER COMPANY, 1974. 615 U.S. 36,60, 94 S.CK 1011, 1025.

AS SUCH IT IS APPARENT THAT THE COURT BELOW ABUSED ITS DISCRETION IN DISMISSING THE COMPLAINT WHILE THE APPELLANT HAD BEEN VICOROUSLY PROSECUTING IT, AND THAT THE SAID DECISION SHOULD BE REVERSED.

CONCLUSION IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT CONGRESS ENACTED TITLE DE OF THE CIVIL RIGHTS ACT OF 1964 "TO ACHIEVE EQUALITY OF EMPLOYMENT OPPORTUNITIES AND REMOVE BARRIERS THAT HAVE OPERATED IN THE PAST TO FAVOR AN IDENTIFIABLE GROUP OF WHITE [APPLICANTS] OVER OTHER [APPLICANTS FOR EMPLOYMENT ?" GRIGGS V DUKE POWER COMPANY, 1931, 401 0.5. 424, 429-30, 91 5 ch. 849, 853. IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT "TITLE TH'S STRICTURES ARE ABSOLUTE AND REPRESENT A CONGRESSIONAL COMMAND TIAT EACH [APPLICANT FOR EMPLOYE UT] BE FREE FROM DISCRIMINATORY PRACTICES" DLEXANDER V GARDNER DENVER COMPANY, 1974, 6115 U.S. 36, 51, 94 S.CI. 1011, 1021. IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT CONGRESS GAVE PRIVATE

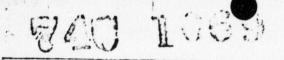
INDIVIDUALS A SIGNIFICANT ROLE IN THE ENFORCEMENT PROCESS OF TITLE II. 18., 415 U s. of 45, 94 s.et. of 1018. IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT "FEDERAL COURTS HAVE BEEN ASSIGNED PLENARY POWERS TO SECURE COMPLIANCE WITH TITLE VII! 18, 415 U.S. of 45, 94 8 Ct. at 1018. IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT "IT IS . . . THE PURPOSE OF TITLE ST TO MAKE PERSONS WHOLE FOR INJURIES SUFFERED ON RECOUNT OF UNLAWFUL EMPLOYMENT DISCRIMINATION." ALBEHARLE PAPER COMPANY V MODDY, 1975, 422 0.5. 405, 418, 95 5.21. 2342, 2372. IF AT ALL THE SUPREME COURT IS RIGHT IN STATING THAT "THE PURPOSE AND PROCEDURES OF TITLE INDICATE THAT CONCRESS INTENDED FEDERAL COURTS TO EXERCISE FINAL RESPONSIBILITY FOR ENFOREEMENT OF TITLE VI 37 -

... " ALEXANDER U CARDUCE DENVER COMPANY, 1974, 415 0.5. 36, 56, 94 5.01. 1011, 1023 THEN THE TRIAL COURT OUGHT TO BE WRONG IN DENYING THE PLAINTIFF. APPELLANT AN OPPORTUNITY TO VINDIENTE HIS CUARANTEED RICHT. THEREFORE THE JUDGMENT APPEALED FROM SHOULD IN ALL RESPECTS BE REVERSED. RESPECT FULLY SUBMITTED, Biosand Wolder Offelland Pro Se BISWANATH HALDER 173.17 BS AUGNUE FRESH MEDDOUS, MY. 11365 TELEPHONE : 212 539 2305 DATED : QUEENS, NEW YORK MAY 30, 1976



MISHLER; 3.

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## BISMANATH HALDER VS SPERRY RAND CORPORATION

DATE	FILINGS- PROCEEDINGS			
7-18-74	Complaint filed- summons issued	1	เสรร	
8/8/74	Summons returned & filed/executed	2	-	
8/14/74	ANSWER of deft Sperry Rand Corp filed.	- 3		
8/14/74	Notice to take deposition and request to produce documents	-		
	filed.	4		
9-19-71	By MISHLER, CH. J - Order dtd 9-12-74 re forma pauperis filed			
<u>10-1-94</u> 10/29/74	By ALMLER, Gl.J Order dated Oct. 29, 1974 filed that the p	5 00		
	motion for leave to amend complaint is adjd to Nov. 1, 1974,			
<u> </u>	etc.	6		
11/1/74	Before MISHLEP, CI.J Case called- Pltff's motion for leave			
	to amend the complaint is withdrawn			
11/4/74	By MISHLER, CH.J Order dated Nov. 1, 1974 filed that motion	for		
	leave to amend complaint is withdrawn, etc.	7		
-11-12-7	4 ANSWER to amended complaint filed.	8		
12/17/74	Notice of Motion, ret. 1/17/75 filed re: to amend its dom-			
10/20/01	plaint, etc.	9		
12/17/74	Notice of Motion, ret. 12/20/74 filed re: to review deposition	10 10		
12/17/74	Affidavit of Roger H. Briton filed.	21		
12/17/74	Deft's Memorandum filed.	12		
12/20/74	Before MISHLER, CH. J Case called- Motion by the pltff for co	рy		
	of deposition taken by the deft of the pltff argued-Motion			
	denied as indicated on the record-Motion returnable on 1/17/74			
73 94	to amend the commplaint argued this day and the motion is grant	ed		
12-31-74	Deposition of B. Halder dtd 9-19-74 filed.	13		
	Deposition of B. Halder (cont'd.) dtd 10-9-74filed.(pc mailed)	114		
1/3/75	ANSUMER to complaint and motion for other relief by deft			
1/17/75	Sperry Rand Corp. filed.	15		
9-1715	Before MISHLERCH.J Case called - Pltff's motion for an order			
	granting the pltff leave to amend its complaint, etc. sub-			
2/7/75	mitted-Decision reserved			
1	(Complaint) Motion for other relief of B. Halder filed.	16		
3/18/1	Interrogatories filed.	17		
	Answers and objections to Interrogatories tiled.	18		
4 =21=75	Hotice of notion ret 5-2-75 for an order compelling deft to			
	onswer interreditories filed.	19		
22 - 1 DE	efore MISHERR, CH. J - Case called & add'd to 5-16-75 conf	- [נינטווז		

MALITIE V. SPERRY PAUL P.

CIVIL DOCKET

DATE	FILINGS-PROCEEDINGS	CLIRK	SFEET,	1
5-5-75	Ry MICHER CU. T. C.	PLAINTIN	DESTROYO	1 1 21
	By MISHLER, CH. JStimulation dtd 5-5-75 adjou	rning		
	pltff's rotion for an order compelling deft to	ansver		-
5-15-75	Interroratories urtil 5-15-75 641-1			20
2 2)-1)	Affidavit of Eric Rosenfeld in opposition to mot	ion to	compel	
	inceriogatories filed			- 07
3-16-75	Refore MICHLEP, CH. JCase called. Pltff's motion	on for	an	51
-	order competition dett to ancreas inte			-
0-12-1	by Midnight, CH. JMemorandum of decision and	ond	11 1 6 -	2 75
	deft is to answer interrogatoines 7 . 2	ts and	donied	2-15
		n m = - !		
	mooton to compet ancheng to		tha react	- -
	9 is denied (p/c ma; ieed )	ries 2,	3, 5,	
6-24-75	Notice of motion ret 7-11-75 for an order suppredeposition of place full			55
	deposition of pltff filed with (Memo of Law. 24)	essing		
halenzhz	xbozinexofzmoximexzexxinixex5			23,
6-24-75	Complaint and motion for ach			
7-9-75	Complaint and motion for other relief filed.			25
1	Affidatit of Eric Rosenfeld in opposition to pltf:	r's mot	ion to	
	- 11160			25
-	Answers to Pltff's Interrogatories & and * in Acc	ordan	with	
1/75	Memorandum of Decision and Order dated June 12, 1	975 fal	led.	27
	Before MISHLER, CH.J. = Case called Motions submreserved.	itted -	Decisio	on
9-76				
	Copy of letter dtd 2-5-76 from Ch. J. Mishler fil date for trial: Feb. 10, 1976 at 10 A.M.	ed re	ottina	
		1 1	1 1	29
-10-76	By MISHLER, CH. J-Memorandum of Decision and Orde	+		
19-76	denying pltff's motion to reargue re interrogator Before MISHLER, CH. J Case and l.	ridtd 2	-9-76	
	Before MISHLER, CH. J case called - PLNTFF not trial, defendant ready - trial ordered & bagus	es Ill	ed. YO	29
	- CO DEPUIL - 1	7 (17) 7712		
	ILLEI IIICCMONE i- F	1-10		
	dismissing complaint. Trial concluded.	d plat	ff .	
10-76 B	efore Mishler Ol I Com	1-1-		
D	efore Mishier, Ol. J. Case called, Pitff not kee	dy for	Detal.	
	enter budement to sustems sinc & Information			0
	The later the layer of the later			Dr. 4
di	smissing the complant. Trial concluded when	the p	ltff	N

DATE		CLERK	S FEES	AMOL		
LA/2	FILINGSPROCEEDINGS		DEFENDAN	EMOLUE	REPORTED IN EMOLUMENT RETURNS	
13-76	JUDGMENT OF DISMISSAL FILED. (p/c mailed to attys	22.65		30	C	
23-76	JUDGMENT dtd 2-20-76 dismissing the complaint fi	led_		31	1	
3-76	Bill of costs filed.		1	32		
	Notice of appeal filed. Copy mailed to deft & C	of A.		33	l	
9-76	Sten. transcript dtd. 12=20-74 filed.			314		
21-76	Above record certified and sent XX to Court of	Appeal	s.		13	
2 <b>2-</b> 76	By MISHLER, CH.J Order dtd 4-21-76 that reque of the consolidated trial be furnished to plntff a expense filed. (74¢ 1069, 74¢ 1376, 75¢ 925)	ested t at gove	ranser	ipts-350	\	
26-76	Acknowledgment rec'd from C of A for receipt o	f file		36	1	
11-76	Sten. transcript dtd. 2-10-76 filed.			37	1	
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2	UNITED STATES DISTRICT COURT
3	EASTERN DISTRICT OF NEW YORK
4	x
5	HALDER :
6	74 C 1069 Plaintiff: 74 C 1376
7	74 C 1377 against: 74 C 1531 74 C 1532
8	SPERRY RAND ET AL. : 74 C 1552
9	75 C 925 Defendants : 75 C 1761
10	x
11	
12	United States Courthouse
13	Brooklyn, New York
14	February 10, 1976 10:00 a.m.
15	Before:
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17	HONORABLE JACOB MISHLER,
18	Ch. U.S.D.J.
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24	SHELDON SILVERMAN Official Court Reporter

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oriented to do the job for us.

MR. STRASSBERG: No further questions.

THE COURT: For the failure and refusal of the plaintiff to proceed, the complaints are dismissed in Halder against Sperry Rand Corp., Halder against Quotron Systems, Inc., and Halder against Informatics, Inc. The clerk is directed to enter judgment in favor of the defendants and against the plaintiff dismissing the complaints.

I hope, gentlemen, that in the other actions, as I indicated, the pretrial discovery be as complete as you can possibly make it, keeping in mind that this plaintiff is proceeding pro se. As soon as all the proceedings have been completed, I will set it down for a trial, consolidated trial. I tell you, Mr. Halder, that I suggest you do everything in your power to get ready. This Court will not countenance delay, whether it's pro se or by attorney. We have a certain amount of understanding for the limitations of a layman who comes in pro se. You're not just the ordinary layman who comes in. You've carefully studied the statute, carefully studied the procedures.

I find that your refusal to proceed today was

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